

ARTICLE APPEARED
ON PAGE 8F

PHILADELPHIA INQUIRER
14 March 1982

Trying to silence those who name CIA names

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Newsday Service

WASHINGTON — Using the pretext that a traffic violation had been committed, Nicaraguan police halted the U.S. Embassy car at the side of a highway in Managua. They seized the driver's license and car registration. State security men arrived an hour later. When the embassy officer refused to accompany them, police took the driver and car away, leaving the officer in the road.

The driver was interrogated for two hours, and the car was taken apart and searched. But the incident, which was reported in a U.S. Embassy cable about three weeks ago, ended peacefully for the embassy officer.

By contrast, between Nov. 6 and Dec. 16, three women employees of the embassy were assaulted, bound and gagged in separate incidents by armed men who overpowered guards and broke into their homes in Managua.

What the embassy officer and the three women had in common was that they were listed as CIA agents in a pro-government Managua newspaper, Nuevo Diario, on Nov. 6. A few weeks before the publication, former CIA agent Philip Agee had visited Managua and charged at a news conference that at least 10 CIA agents were hiding in the embassy's political section.

Agee, who opposes CIA covert activity and has been a controversial figure since publication of his book *CIA Diary* in 1975, said he did not provide a list of names but added that they "are probably in the hands of state security already." The embassy refused to say whether the people named were, in fact, agents.

Successive U.S. administrations and CIA directors have pleaded for laws to punish the handful of former

agents and private citizens connected with the Covert Action Information Bulletin, which regularly prints the names of alleged CIA agents overseas with the avowed intention of hindering their operations.

Now the Senate is on the verge of approving the Intelligence Identities Protection Act, commonly referred to as the "Names of Agents" bill. Support is overwhelming — the House voted 354-46 for it Sept. 23 — and there is no question that it will pass. The debate is over the spillover effect on investigative journalism in the United States.

The bill being debated by the Senate would set penalties of up to \$50,000 in fines and 10 years' imprisonment for disclosure of names of CIA agents by a former government employee and up to \$15,000 and three years in prison for disclosure by a private citizen.

While "getting the bad guys," as Sen. Joseph Biden (D., Del.) put it in debate this month, has wide support in Congress, it is viewed in the civil liberties community and among many constitutional lawyers, editors and publishers, as an attempt to use a sledgehammer to smash a gnat.

The American Civil Liberties Union (ACLU) has called the bill unconstitutional and a threat to the First Amendment guarantee of freedom of speech. But since the bill seems likely to pass, the ACLU has backed efforts by Biden and a majority of the Senate Judiciary Committee to insert language in it that would narrow its scope.

At the heart of the Senate debate so far is whether the bill would discourage reporting such as the New York Times series last year that revealed that ex-CIA agents Frank Terpil and Edwin Wilson had trained terrorists on behalf of Libyan leader Moammar Khadafy.

The Times editorialized recently that no matter how much those reports served the U.S. public interest, "a wrathful prosecutor armed with the pending bill" could attack the newspaper for publishing them.

Of such concerns, the bill's chief sponsor, Sen. John Chafee (R., R.I.), said: "That is absolute nonsense. The

their names would not be penalized under this bill."

The rebuttal that Terpil and Wilson still claim to be CIA informants and might be considered current agents, thereby triggering the law, has not yet been addressed in the Senate debate. But staff aides to the Senate Intelligence Committee said the CIA had flatly denied that the two men still were connected with the agency in any way.

Biden wants the law to require proof that the revelation of an agent's name was intended to harm foreign intelligence-gathering. The Chafee version, backed by the White House, would require only a court's judgment that damage was done. Each claims that his version is the more protective of legitimate journalistic enterprise.

Agee said in a telephone interview from Hamburg, West Germany, that he finds the proposed law ironic. As an ex-CIA agent, he already is covered by a law forbidding him from divulging secret information, and he has lost his U.S. passport for doing so. And, he said, "I haven't named any names of CIA people since 1977 ..."